

ASSEMBLY BILL

No. 2636

**Introduced by Assembly Members Linder and Dababneh
(Coauthors: Assembly Members Kim, Mathis, O'Donnell, and
Olsen)**

February 19, 2016

An act to amend Section 103526 of the Health and Safety Code, relating to vital records.

LEGISLATIVE COUNSEL'S DIGEST

AB 2636, as introduced, Linder. Certified copies of marriage, birth, and death certificates: electronic application.

Under existing law, a certified copy of a birth, death, marriage, or military service record may only be supplied by the State Registrar, local registrar, or county recorder to an authorized person, as defined, who submits a written, faxed, or digitized image request accompanied by a notarized statement sworn under penalty of perjury that the applicant is an authorized person.

This bill would, if the request for a certified copy of a birth, death, or marriage record is made electronically, authorize the official to accept electronic acknowledgment verifying the identity of the requester using a remote identity proofing process aligned with federal guidelines for security and privacy, and satisfying other specified requirements, ensuring that the requester is an authorized person. The bill would require the verification to comply with specified provisions and protect the personal information of the requester and guard against identity theft.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 103526 of the Health and Safety Code is amended to read:

103526. (a) (1) If the State Registrar, local registrar, or county recorder receives a written, faxed, or digitized image of a request for a certified copy of a birth, death, or marriage record pursuant to Section 103525 that is accompanied by a notarized statement sworn under penalty of ~~perjury~~ *perjury*, or a faxed copy or digitized image of a notarized statement sworn under penalty of ~~perjury~~ *perjury*, that the requester is an authorized person, as defined in this section, that official may furnish a certified copy to the applicant pursuant to Section 103525. ~~A~~

(2) A faxed or digitized image of the notary acknowledgment accompanying a faxed request received pursuant to this subdivision for a certified copy of a birth, death, or marriage record shall be legible and, if the notary's seal is not photographically reproducible, show the name of the notary, the county of the notary's principal place of business, the notary's telephone number, the notary's registration number, and the notary's commission expiration date typed or printed in a manner that is photographically reproducible below, or immediately adjacent to, the notary's signature in the acknowledgment. If a request for a certified copy of a birth, death, or marriage record is made in person, the official shall take a statement sworn under penalty of perjury that the requester is signing his or her own legal name and is an authorized person, and that official may then furnish a certified copy to the applicant.

(3) *If a request for a certified copy of a birth, death, or marriage record is made electronically, the official may accept an electronic acknowledgment verifying the identity of the requester using a remote identity proofing process ensuring that the requester is an authorized person. The identity proofing process shall be aligned with the federal guidelines for security and privacy and shall include dynamic knowledge-based authentication or an identity proofing method consistent with the electronic authentication guidelines of the National Institute of Standards and Technology. The verification shall comply with the Uniform Electronic Transactions Act and all other applicable state and federal laws and regulations to protect the personal information of the requester*

1 *and guard against identity theft. If a requester's identity cannot*
2 *be established electronically pursuant to this paragraph, the*
3 *requester may accompany his or her request with a notarized*
4 *statement of identity pursuant to paragraph (1).*

5 ~~(2)~~

6 (4) For purposes of this subdivision, "digitized image" means
7 an image of an original paper request for a certified copy of a birth,
8 death, or marriage record.

9 (b) (1) If the person requesting a certified copy of a birth, death,
10 or nonconfidential marriage record is not an authorized person or
11 is an authorized person who is otherwise unable to satisfy the
12 requirements of subdivision (a), the certified copy provided to the
13 applicant shall be an informational certified copy and shall display
14 a legend that states "INFORMATIONAL, NOT A VALID
15 DOCUMENT TO ESTABLISH IDENTITY." The legend shall
16 be placed on the certificate in a manner that will not conceal
17 information.

18 (2) If the person requesting a certified copy of a confidential
19 marriage record is not an authorized person or is an authorized
20 person who is otherwise unable to satisfy the requirements of
21 subdivision (a), the official shall not release a certified copy of the
22 confidential marriage record unless otherwise authorized by law.

23 (c) For purposes of this section, an "authorized person" means:

24 (1) For purposes of requests for certified copies of confidential
25 marriage records, only a party to the confidential marriage.

26 (2) For purposes of requests for certified copies of birth, death,
27 or nonconfidential marriage records, a person who is any of the
28 following:

29 (A) The registrant or a parent or legal guardian of the registrant.

30 (B) A party entitled to receive the record as a result of a court
31 order, or an attorney or a licensed adoption agency seeking the
32 birth record in order to comply with the requirements of Section
33 3140 or 7603 of the Family Code.

34 (C) A member of a law enforcement agency or a representative
35 of another governmental agency, as provided by law, who is
36 conducting official business.

37 (D) A child, grandparent, grandchild, sibling, spouse, or
38 domestic partner of the registrant.

1 (E) An attorney representing the registrant or the registrant's
2 estate, or any person or agency empowered by statute or appointed
3 by a court to act on behalf of the registrant or the registrant's estate.

4 (F) An agent or employee of a funeral establishment who acts
5 within the course and scope of his or her employment and who
6 orders certified copies of a death certificate on behalf of ~~any~~ *an*
7 individual specified in paragraphs (1) to (5), inclusive, of
8 subdivision (a) of Section 7100.

9 (d) A person who asks the agent or employee of a funeral
10 establishment to request a death certificate on his or her behalf
11 warrants the truthfulness of his or her relationship to the ~~decedent~~,
12 *decedent* and is personally liable for all damages occasioned by,
13 or resulting from, a breach of that warranty.

14 (e) Notwithstanding any other law:

15 (1) A member of a law enforcement agency or a representative
16 of a state or local government agency, as provided by law, who
17 orders a copy of a record to which subdivision (a) applies in
18 conducting official business shall not be required to provide the
19 notarized statement required by subdivision (a).

20 (2) An agent or employee of a funeral establishment who acts
21 within the course and scope of his or her employment and who
22 orders death certificates on behalf of individuals specified in
23 paragraphs (1) to (5), inclusive, of subdivision (a) of Section 7100
24 shall not be required to provide the notarized statement required
25 by subdivision (a).

26 (f) Informational certified copies of birth and death certificates
27 issued pursuant to subdivision (b) shall only be printed from the
28 single statewide database prepared by the State Registrar and shall
29 be electronically redacted to remove any signatures for purposes
30 of compliance with this section. Local registrars and county
31 recorders shall not issue informational certified copies of birth and
32 death certificates from a source other than the statewide database
33 prepared by the State Registrar. This subdivision shall become
34 operative on July 1, 2007, but only after the statewide database
35 becomes operational and the full calendar year of the birth and
36 death indices and images is entered into the statewide database
37 and is available for the respective year of the birth or death
38 certificate for which an informational copy is requested. The State
39 Registrar shall provide written notification to local registrars and

- 1 county recorders as soon as a year becomes available for issuance
- 2 from the statewide database.

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